

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 BRYAN DRYDEN,

4 Plaintiff

Case No. 2:20-cv-0068-RFB-BNW

ORDER

5 v.

6 JAMES DZURENDA, et al.,

7 Defendants  
8

9 **I. DISCUSSION**

10 On May 17, 2021, the Court issued a screening order permitting two claims to  
11 proceed and dismissing some claims with leave to amend and one claim with prejudice.  
12 ECF No. 8. The Court granted Plaintiff 30 days from the date of that order to file an  
13 amended complaint curing the deficiencies of the complaint. *Id.* The Court specifically  
14 stated that if Plaintiff chose not to file an amended complaint, the action would proceed  
15 only on the following claims: Count 1 -- Eighth Amendment Cruel and Unusual  
16 Punishments Clause – Failure to Protect as brought against Norman, Moyia, and  
17 Thomson, and Count 3 – Fourteenth Amendment Due Process Clause – Disciplinary  
18 Hearing as brought against Brown. *Id.* at 22. Plaintiff has not filed an amended  
19 complaint. Pursuant to the screening order, this action will proceed only on the  
20 following claims: Count 1 -- Eighth Amendment Cruel and Unusual Punishments Clause  
21 – Failure to Protect as brought against Norman, Moyia, and Thomson, and Count 3 –  
22 Fourteenth Amendment Due Process Clause – Disciplinary Hearing as brought against  
23 Brown.

24 **II. CONCLUSION**

25 For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's  
26 screening order (ECF No. 8), this action will proceed only on the following claims: Count  
27 1 -- Eighth Amendment Cruel and Unusual Punishments Clause – Failure to Protect as  
28 brought against Norman, Moyia, and Thomson, and Count 3 – Fourteenth Amendment

1 Due Process Clause – Disciplinary Hearing as brought against Brown.

2 IT IS FURTHER ORDERED that given the nature of the claims that the Court has  
3 permitted to proceed, this action is STAYED for 90 days to allow Plaintiff and  
4 Defendants an opportunity to settle their dispute before the \$350.00 filing fee is paid, an  
5 answer is filed, or the discovery process begins. During this 90-day stay period and  
6 until the Court lifts the stay, no other pleadings or papers may be filed in this case, and  
7 the parties may not engage in any discovery, nor are the parties required to respond to  
8 any paper filed in violation of the stay unless specifically ordered by the court to do so.  
9 The Court will refer this case to the Court's Inmate Early Mediation Program, and the  
10 Court will enter a subsequent order. Regardless, on or before 90 days from the date  
11 this order is entered, the Office of the Attorney General will file the report form attached  
12 to this order regarding the results of the 90-day stay, even if a stipulation for dismissal is  
13 entered prior to the end of the 90-day stay. If the parties proceed with this action, the  
14 Court will then issue an order setting a date for Defendants to file an answer or other  
15 response. Following the filing of an answer, the Court will issue a scheduling order  
16 setting discovery and dispositive motion deadlines.

17 IT IS FURTHER ORDERED that "settlement" may or may not include payment of  
18 money damages. It also may or may not include an agreement to resolve Plaintiff's  
19 issues differently. A compromise agreement is one in which neither party is completely  
20 satisfied with the result, but both have given something up and both have obtained  
21 something in return.

22 IT IS FURTHER ORDERED that if the case does not settle, Plaintiff will be  
23 required to pay the full \$350.00 filing fee. This fee cannot be waived and the fee cannot  
24 be refunded once the Court enters an order granting Plaintiff's application to proceed *in*  
25 *forma pauperis*. If the Court allows Plaintiff to proceed *in forma pauperis*, the fee will be  
26 paid in installments from his prison trust account. 28 U.S.C. § 1915(b). If Plaintiff is not  
27 allowed to proceed *in forma pauperis*, the \$350.00 will be due immediately.

28 IT IS FURTHER ORDERED that if any party seeks to have this case excluded

1 from the inmate mediation program, that party will file a “motion to exclude case from  
2 mediation” on or before 21 days from the date of this order. The responding party will  
3 have 7 days to file a response. No reply will be filed. Thereafter, the Court will issue an  
4 order, set the matter for hearing, or both.

5 IT IS FURTHER ORDERED that the Clerk of the Court will electronically SERVE  
6 a copy of this order, the original screening order (ECF No. 8) and a copy of Plaintiff’s  
7 amended complaint (ECF No. 7) on the Office of the Attorney General of the State of  
8 Nevada, by adding the Attorney General of the State of Nevada to the docket sheet.  
9 This does not indicate acceptance of service.

10 IT IS FURTHER ORDERED that the Attorney General’s Office will advise the  
11 Court within 21 days of the date of the entry of this order whether it will enter a limited  
12 notice of appearance on behalf of Defendants for the purpose of settlement. No  
13 defenses or objections, including lack of service, will be waived as a result of the filing of  
14 the limited notice of appearance.

15 DATED July 6, 2021.

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17 Brenda Weksler  
18 United States Magistrate Judge  
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2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF NEVADA

4 BRYAN DRYDEN,

5 Plaintiff

6 v.

7 JAMES DZURENDA, et al.,

8 Defendants

Case No. 2:20-cv-0068-RFB-BNW  
REPORT OF ATTORNEY GENERAL  
RE: RESULTS OF 90-DAY STAY

9  
10 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.**  
11 **THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

12 On May 17, 2021 the Court issued its screening order stating that it had  
13 conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified  
14 claims in this case would proceed. The Court ordered the Office of the Attorney  
15 General of the State of Nevada to file a report ninety (90) days after the date of the  
16 entry of the Court's screening order to indicate the status of the case at the end of the  
17 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

18  
19 **REPORT FORM**

20  
21 [Identify which of the following two situations (identified in bold type) describes the case,  
22 and follow the instructions corresponding to the proper statement.]

23 **Situation One: Mediated Case: The case was assigned to mediation by a court-**  
24 **appointed mediator during the 90-day stay.** [If this statement is accurate, check  
25 **ONE** of the six statements below and fill in any additional information as required, then  
26 proceed to the signature block.]

27 \_\_\_\_\_ A mediation session with a court-appointed mediator was held on  
28 \_\_\_\_\_ [enter date], and as of this date, the parties have  
reached a settlement (even if paperwork to memorialize the settlement  
remains to be completed). (If this box is checked, the parties are on  
notice that they must SEPARATELY file either a contemporaneous  
stipulation of dismissal or a motion requesting that the Court continue the  
stay in the case until a specified date upon which they will file a stipulation  
of dismissal.)

1 \_\_\_\_\_ A mediation session with a court-appointed mediator was held on  
2 \_\_\_\_\_ [enter date], and as of this date, the parties have not  
3 reached a settlement. The Office of the Attorney General therefore  
informs the Court of its intent to proceed with this action.

4 \_\_\_\_\_ No mediation session with a court-appointed mediator was held during the  
5 90-day stay, but the parties have nevertheless settled the case. *(If this*  
6 *box is checked, the parties are on notice that they must SEPARATELY file*  
7 *a contemporaneous stipulation of dismissal or a motion requesting that the*  
8 *Court continue the stay in this case until a specified date upon which they*  
9 *will file a stipulation of dismissal.)*

10 \_\_\_\_\_ No mediation session with a court-appointed mediator was held during the  
11 90-day stay, but one is currently scheduled for \_\_\_\_\_ [enter  
12 date].

13 \_\_\_\_\_ No mediation session with a court-appointed mediator was held during the  
14 90-day stay, and as of this date, no date certain has been scheduled for  
15 such a session.

16 \_\_\_\_\_ None of the above five statements describes the status of this case.  
17 Contemporaneously with the filing of this report, the Office of the Attorney  
18 General of the State of Nevada is filing a separate document detailing the  
19 status of this case.

20 \* \* \* \* \*

21 **Situation Two: Informal Settlement Discussions Case:** The case was NOT  
22 assigned to mediation with a court-appointed mediator during the 90-day stay;  
23 rather, the parties were encouraged to engage in informal settlement  
24 negotiations. [If this statement is accurate, check **ONE** of the four statements below  
25 and fill in any additional information as required, then proceed to the signature block.]

26 \_\_\_\_\_ The parties engaged in settlement discussions and as of this date, the  
27 parties have reached a settlement *(even if the paperwork to memorialize*  
28 *the settlement remains to be completed)*. *(If this box is checked, the*  
parties are on notice that they must SEPARATELY file either a  
contemporaneous stipulation of dismissal or a motion requesting that the  
Court continue the stay in this case until a specified date upon which they  
will file a stipulation of dismissal.)

\_\_\_\_\_ The parties engaged in settlement discussions and as of this date, the  
parties have not reached a settlement. The Office of the Attorney General  
therefore informs the Court of its intent to proceed with this action.

\_\_\_\_\_ The parties have not engaged in settlement discussions and as of this  
date, the parties have not reached a settlement. The Office of the  
Attorney General therefore informs the Court of its intent to proceed with  
this action.

\_\_\_\_\_ None of the above three statements fully describes the status of this case.

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Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by:

Attorney Name: _____	_____
Print	Signature

Address: _____	Phone: _____
_____	_____
	Email: _____
	_____